

REMARKS

Entry of the above amendments and consideration of the following remarks are respectfully requested. In the Response claims 41 and 57 have been amended. The remaining claims are unchanged from the prior submission. Upon entry of the above amendments, this application will contain claims 41-48 and 56-62, pending and under consideration. For the reasons discussed more fully below it is believed that the claimed invention is patentable over the cited references. Therefore, reconsideration is requested leading to allowance of all claims.

Interview Summary

At the onset the undersigned wishes to express his appreciate for the curtsies extended by the Examiner during the telephonic interview of November 16, 2004. During that interview, claim 41 and the Good reference were discussed. It was discussed that the Good reference did not teach or suggest a test strip that included the overlay and detection layers on a support as previously claimed and which also allowed one to visually observe the signal (resulting from the detection of an analyte) through the support. While no agreement was explicitly reached concerning the patentability of the present invention, the Examiner did indicate that a claim amendment along the lines noted immediately above would overcome the teaching found in the Good reference, pending adequate support for such an amendment in the application. It is believed that claims 41 and 57 as amended herein embody the claim language discussed during the interview.

Claim Objections

Objections were raised over claims 44 and 45 for being duplicates of claims 61 and 62. Claim 44 and 45 depend from claim 1, which has now been amended. Therefore it is believed that these two pairs of claims no longer duplicate each other. Withdrawal of the objection is requested.

Claim Rejections Under 35 USC §103

Claims 41-43, 46-48 and 57-60 were rejected under §103(a) over Good et al. (US 6,194,224, "Good") in view of Dreyfus (US 2,063,987, "Dreyfus"). As noted above, claim 41 has been amended. Support for the claim amendments can be found in the application at

paragraph 111. (All references to the present application refer to the published application, US 2003/0031592.) It is believed that Good does not disclose or make obvious a test strip as presently claimed including one or more detection layers which allow visual observation of the detection of an analyte through the support. Withdrawal of the rejections of claim 41 and claims 42-43, and 46-48, which depend from claim 41, is requested.

Claim 57 has been similarly amended. For the reason noted above, it is believed that claim 57 is patentable over the cited art. Withdrawal of the rejections of claim 57 and claims 56-60, which depend from claim 57 is requested.

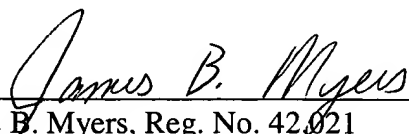
Double Patenting Rejection

The undersigned submits concurrent with this Response a Terminal Disclaimer signed by an attorney of record. Therefore withdrawal of the double patenting rejection is requested.

Conclusion

In view of the foregoing discussion, reconsideration, withdrawal of all outstanding rejections, and allowance of this application containing claims 41-48 and 56-62 are respectfully requested. In addition, the Examiner is invited to telephone the undersigned attorney if there are any questions about this submission or other formal matters, which may be addressed in that fashion to facilitate allowance of this application.

Respectfully submitted,

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